

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal Action No.
	)	03-00171-01-CR-W-ODS
HESSAM GHANE,	)	
	)	
Defendant.	)	

**MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on December 30, 2005. Defendant Hessam Ghane appeared in person and with retained counsel James Wyrsh and Justin Johnston. The United States of America appeared by Assistant United States Attorney Mike Green.

***I. BACKGROUND***

On May 15, 2003, an indictment was returned charging Defendant with one count of knowingly stockpiling, retaining, and possessing potassium cyanide, which was not intended to be used for a peaceful purpose, in violation of 18 U.S.C. § 229(a)(1).

The following matters were discussed and action taken during the pretrial conference:

## ***II. TRIAL COUNSEL***

Mr. Green announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is David Cudmore, FBI.

Mr. Wyrsh and Mr. Johnston announced that they will be the trial counsel for Defendant Ghane.

## ***III. OUTSTANDING MOTIONS***

There following motions are pending in this case:

(1) Motion to Dismiss Case because 18 U.S.C. §§ 229 and 229A are Unconstitutionally Vague and Overbroad (Doc. # 83)

- R&R filed 10/11/05 (Doc. # 106)

(2) Amended Motion to Suppress Evidence (Doc. #88)

- R&R filed 12/14/05 (Doc. # 129)

(3) Motion in Limine to Exclude Statements on Basis of Psychotherapist-Patient Privilege

- R&R filed 12/21/05 (Doc. # 135)

## ***IV. TRIAL WITNESSES***

Mr. Green announced that the government intends to call fifteen witnesses without stipulations or eleven to twelve witnesses with stipulations during the trial.

Mr. Wyrsh and Mr. Johnston announced that Defendant Ghane intends to call eight witnesses during the trial. Defendant may testify.

## ***V. TRIAL EXHIBITS***

Mr. Green announced that the government will offer approximately twenty-five to thirty exhibits in evidence during the trial.

Mr. Wyrsh and Mr. Johnston announced that Defendant Ghane will offer thirty-two exhibits in evidence during the trial.

***VI. DEFENSES***

Mr. Wyrsh and Mr. Johnston announced that Defendant Ghane will rely on the defense of general denial.

***VII. POSSIBLE DISPOSITION***

Mr. Wyrsh and Mr. Johnston stated this case is definitely for trial.

***VIII. STIPULATIONS***

Stipulations are likely as to: (1) chain of custody; (2) chemist's reports; (3) records from CCA on inmates; (4) Defendant's apartment lease; and (5) Defendant's hospital records.

***IX. TRIAL TIME***

Counsel were in agreement that this case will take three and a half to four days to try.

***X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS***

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed June 2, 2003, counsel for each party file and serve a list of exhibits they intend to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by Friday, December 30, 2005;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Friday, January 6, 2006;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Friday, January 6, 2006. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and, if available to counsel, 3 and 1/2 inch computer disk in a form compatible with WordPerfect 9.0, 10.0, or 11.0.

***XI. UNUSUAL QUESTIONS OF LAW***

No additional motions in limine are anticipated. Defendant will present evidence of diminished mental capacity allegedly going to specific intent, which may be the subject of dispute.

***XII. TRIAL SETTING***

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on January 17, 2006. A hearing device is required.

/s/ Robert E. Larsen

ROBERT E. LARSEN  
U. S. Magistrate Judge

Kansas City, Missouri  
December 30, 2005

cc: The Honorable Ortrie D. Smith  
Mr. Mike Green  
Mr. James Wyrsh  
Mr. Justin Johnston  
Mr. Jeff Burkholder